

**OFFICE OF PROFESSIONAL ACCOUNTABILITY
STANDARD OPERATING
PROCEDURES MANUAL**

TABLE OF CONTENTS

Introduction.....	3
Chapter 1 – Overview	4
Section 1.01 Organization.....	4
Section 1.02 The Manual	4
Section 1.03 Use, Distribution and Issuance.....	4
Section 1.04 Other Official Publications	4
Chapter 2 – Goals, Objectives, and Authority	5
Section 2.01 Goals of OPA	5
Section 2.02 Objectives of OPA	5
Section 2.03 Duties and Responsibilities of the OPA Director	5
Section 2.04 Administrative Investigations	6
Section 2.05 Objectives of an Administrative Investigation.....	7
Section 2.06 OPA Investigator Code of Ethics.....	7
Chapter 3 – Acceptance and Assignment of Complaints	8
Section 3.01 Jurisdiction.....	8
Section 3.02 Assignment of Complaints.....	8
Section 3.03 Referral of Complaints for Mediation.....	8
Chapter 4 – Investigative Procedures	10
Section 4.01 Supervisory Notifications	10
Section 4.02 Logging of Complaints	10
Section 4.03 Disclosure	10
Section 4.04 Complainant Status Notifications	11
Section 4.05 Employee Notification	11
Section 4.06 Investigation Timelines.....	12
Section 4.07 Investigative Response.....	12
Section 4.08 Investigative Analysis.....	12
Section 4.09 Investigative Plan Elements	13
Section 4.10 Order of Interviews	14
Section 4.11 General Interview Techniques	14
Section 4.12 Interviewing Complainants	15

Section 4.13 Interviewing Departmental Witnesses	16
Section 4.14 Employee Rights and Obligations.....	17
Section 4.15 Pre-Interview Admonitions.....	17
Section 4.16 Post-Interview Admonitions	17
Section 4.17 Investigative Interviews	17
Section 4.18 Examinations, Searches, Photos, Documents, Exams, Tests, and Lineups.....	18
Section 4.19 Complaints of Harassment and/or Discrimination	18
Section 4.20 Case Status Designation.....	19
Section 4.21 Conclusion of Fact	19
Chapter 5 – Force Investigations.....	21
Section 5.01 Investigation of Officer Involved Shootings.....	21
Section 5.01.01 Office of Professional Accountability Responsibilities	21
Section 5.01.02 Office of Professional Accountability Investigator Responsibilities	21
Section 5.02 Investigation of In-Custody Death or Serious Bodily Injury Incidents	22
Section 5.02.01 Office of Professional Accountability Responsibilities	22
Chapter 6 – Office of Professional Accountability Lieutenant	22
Section 6.01 OPA Lieutenant Responsibilities	22
Chapter 7 – Office of Professional Accountability Investigator	24
Section 7.01 OPA Investigator Responsibilities	24
Chapter 8 – Civilian Personnel.....	26
Section 8.01 OPA Civilian Personnel Responsibilities.....	26
Chapter 9 – Rotational Sergeant Program	27
Section 9.01 Purpose.....	27
Section 9.02 Goals	27
Section 9.03 Administration	27
Chapter 10 – Community Education & Involvement.....	28
Section 10.01 Community Resources	28
Chapter 11 – Metro Nashville Community Oversight	28
Section 11.01 Metro Nashville Community Oversight.....	28

Division forms may be located within the designated division network folder.

Introduction

This document contains the Standard Operating Procedures (SOP) of the Office of Professional Accountability. It is issued under the authority granted the Director by the Chief of Police. This document will address operational and administrative issues specific to the Office of Professional Accountability.

It is arranged in chapters which are titled by their general topic. Within each chapter are sections, which provide specific instructions regarding the topic at hand. Sub-sections provide even more information within a section. The format will be per the following example: 4.02.A would be “chapter four, section two, sub-section A.”

This document will be maintained online on the MNPDP computer network. Users are cautioned that the most recent/up-to-date version will be online, and any printed versions may not have the most recent changes. In order to determine the date of the current version, please refer to the cover page, where the date of the last revision will be notated.

This document replaces and rescinds all SOP’s previously produced for the Office of Professional Accountability.

Chapter 1

OVERVIEW

1.01 Organization

The Director of the Professional Standards Division shall be appointed by the Chief of Police.

The Office of Professional Accountability shall fall under the control of the Professional Standards Division. The Director of the Professional Standards Division shall answer directly to the Chief of Police in the organizational structure.

Chief of Police

 *Professional Standards Division

 * Office of Professional Accountability

 * Legal Resources Division

1.02 The Manual

This manual is an official publication of the Office of Professional Accountability (hereinafter OPA) of the Metropolitan Nashville Police Department. It is issued under the authority of the Director of OPA and contains procedures and guidelines that pertain to every function of OPA.

These procedures and guidelines apply to all OPA employees, both sworn and civilian, and are intended to outline responsibilities, facilitate duties, and provide direction.

1.03 Use, Distribution and Issuance

All employees assigned to OPA will have access to the manual, and are responsible to be familiar with its contents and for incorporating its contents into their duties and everyday job actions. The most updated version of the manual will be maintained in the OPA Folder on the K: Drive for ease of access to all personnel. Employees shall be required to sign an acknowledgment of receipt of the manual, either in hard copy or electronic version.

1.04 Other Official Publications

In addition to this manual, OPA personnel shall familiarize themselves with other pertinent official publications and policies, as directed by the Chief of Police, or his designee. All OPA personnel shall be responsible for all pertinent policies and procedures applicable to their job function.

Chapter 2

GOALS, OBJECTIVES, AND AUTHORITY

2.01 Goals of OPA

The goal of OPA is to ensure that the integrity of the Department is maintained through an internal system, whereby objectivity, fairness, and justice are secured by an impartial investigation and review. OPA is also designed to be a resource in all matters that may be required for the good of the Department and the community.

In furtherance of these goals, OPA shall conduct investigations of allegations and complaints made against the department's employees as directed. Further, OPA shall work cooperatively whenever possible with Metro Nashville Community Oversight (MNCO) and the Community Oversight Board (COB).

2.02 Objectives of OPA

The primary objectives of the Office of Professional Accountability shall be:

- A. Conducting investigations as directed by the Chief of Police regarding complaints and accusations made against personnel of the department;
- B. Coordinating and monitoring the department's disciplinary procedures; and
- C. Assisting with policy formation and identification of policy/training failures.

2.03 Duties and Responsibilities of the OPA Director

The Director of the Office of Professional Accountability shall be directly accountable to the Chief of Police and the Mayor for the proper administration, general management, and control of all matters related to the operation of that division and is generally governed by the same duties and responsibilities, rules and regulations applicable to any other commanding officer of the department.

Assigned duties shall include:

- A. Maintaining liaison with all other elements of the department and allied agencies;
 1. The Director, or his/her designee, shall ensure notification is made to the executive secretary of the POST Commission of the arrest, for any offense, of any sworn employee of the department. This shall occur within twenty-four (24) hours of gaining knowledge of the arrest.
- B. Making policy recommendations to the Chief of Police and Mayor on various issues concerning the professional standards of the department;
- C. Building and maintaining community outreach programs to educate the public about the OPA's role in ensuring professional standards for police personnel;
- D. Serving as a representative of the department to any agency concerned with the activities and operations of the Office of Professional Accountability, including MNCO and COB.
- E. Organizing, directing, and controlling all resources of the Office of Professional Accountability, maintaining operations at a productive level, and making the division sufficiently flexible to ensure optimum performance;
- F. Preparing and submitting budget estimates encompassing the total operation of the division;
- G. Seeking the most qualified personnel to fill vacant positions in the division;

- H. The Director of the Office of Professional Accountability shall conduct a workload assessment annually to determine the manpower needs of the unit.
 - 1. The following shall be considered, at a minimum, in evaluating the workload assessment for OPA:
 - a. Annual case load;
 - b. number of complaints made to the office, whether by phone, online submission, in person, or other means; and
 - c. other duties and assignments the unit is responsible for.
 - 2. The workload assessment shall include justification for any requests for manpower allocation changes.
- I. Remaining alert to the need for improved methods and techniques unique to the operations of the Office of Professional Accountability;
- J. Supervising investigations in matters involving deficiencies of and accusations against department personnel;
- K. Supervising, coordinating, and monitoring the department's disciplinary procedures;
- L. Familiarization with the administrative policies and execution of a service program within the area of responsibility of the division, which include:
 - 1. recording, registering, and controlling the investigation of complaints against officers;
 - 2. supervising and controlling the investigation of alleged or suspected misconduct within the department;
 - 3. maintaining the confidentiality of internal investigations and records;
 - 4. supervising and monitoring the department's disciplinary procedures initiated by commanding officers and supervisors;
 - 5. providing assistance to any commanding officer or supervisor in the advancement of the department's interest;
 - 6. the security of all files regarding internal investigations;
 - 7. completing an annual report regarding internal investigations conducted by the department, making that report available to all employees as well as the public at large;
 - 8. checking for policy failures that result in employee misconduct;
 - 9. submitting reports twice monthly to the Chief of Police regarding internal investigations; and
 - 10. administer polygraph and/or Computer Voice Stress Analysis examinations in all instances as per the policy of the department.
- M. Providing and maintaining records for the purpose of:
 - 1. issuing complaint numbers to provide control and security to investigations involving department personnel;
 - 2. receiving, processing, and providing ready reference for all complaints against department personnel;
 - 3. monitoring and documenting the progress and disposition of internal investigations; and
 - 4. maintaining a record of all complaints against the department or its employees.
- N. Formulating goals and objectives pertinent to the operation of the Office of Professional Accountability on an annual basis; and
- O. Performing other duties and discharging other responsibilities as may be assigned by the Chief of Police.

2.04 Administrative Investigations

Administrative investigations will be specifically, directly, and narrowly related to performance of duties within the scope of employment and fitness of the employee to hold the position. If, during an investigation there are potential criminal violations, then the criminal investigation portion of the investigation will be forwarded to the appropriate criminal investigative unit.

OPA may continue an investigation of the potential administrative violations simultaneous to a criminal investigation, but the two investigations will be kept separate. OPA may continue an administrative investigation into the conduct to assess or establish an administrative duty or omission of duty relevant to the underlying criminal case.

The criteria for determining the categories of complaints to be referred to OPA may include, but are not limited to: allegations of corruption, brutality, misuse of force, major breach of civil rights, and criminal misconduct. When an allegation of misuse of force is reported to the immediate supervisor, it shall be the responsibility of that supervisor to conduct a preliminary investigation into such allegations before reporting them to OPA.

2.05 Objectives of an Administrative Investigation

The role of OPA is to investigate administrative (departmental) violations. The objectives of an administrative investigation are to:

- A. Factually establish what happened, to include all relevant information which bears on the culpability, if any, of the employee.
- B. Uncover and preserve all pertinent facts and evidence so they may be considered in a disciplinary hearing.
- C. Determine if department personnel were involved in a violation of law, policy, procedure, rules, regulations, ethical codes, or administrative or executive orders as established by the department or Metropolitan Government.
- D. Determine if the conduct was the result of an organizational failure.
- E. Determine the reasonableness and basis of the employee's actions and evaluate any explanation given.

2.06 OPA Investigator Code of Ethics

"As an investigating officer of the Office of Professional Accountability, I will, while investigating all allegations that are assigned to me, govern myself with the utmost emphasis on fairness and objectivity.

I will make no prejudgments concerning the credibility of complainants or departmental employees, regardless of race, creed, gender, class, sexual orientation or national origin.

I will not presume that departmental employees or law enforcement officers are more, or less credible than complainants.

I will not allow passion, associations, bias or prejudice to influence any investigation.

My function is to objectively obtain relevant information and draw reasonable conclusions there from. Recommendations concerning the guilt or innocence or any employee will be based upon facts obtained during an impartial investigation.

I will confidentially maintain information regarding investigations as required and governed by the laws of the state of Tennessee. "

Chapter 3

ACCEPTANCE AND ASSIGNMENT OF COMPLAINTS

3.01 Jurisdiction

OPA may exercise staff supervision over all investigations of alleged misconduct by employees of the department, as approved by the Director of OPA and the Chief of Police.

OPA will investigate complaints or allegations of serious misconduct against employees of the department. Employees accepting complaints shall be responsive and courteous.

- A. Any person may make a complaint. Complaints may be made orally or in writing, signed or unsigned. An unsigned, anonymous complaint may be the basis for initiating an investigation.
- B. Complaints are defined as an allegation, communicated orally or in writing, that provides reasonable grounds to believe an employee of the department may have committed misconduct.
- C. Allegations regarding minor misconduct such as rudeness will be documented, and forwarded to a ranking officer in the employee's chain of command for investigation.
- D. In incidents involving alleged criminal misconduct, the Chief of Police may assign the investigation to a specialized unit either within or outside the department. OPA may conduct a parallel administrative investigation.
- E. All other complaints received by OPA will be referred to the Director of the Professional Standards Division, or his/her designee, for assignment or referral.

3.02 Assignment of Complaints

Complaints received at the Office of Professional Accountability will be screened to determine the best place for the investigation to occur. Complaints that are not investigated by the Office of Professional Accountability will be forwarded to the appropriate component for further investigation.

Complaints that will be investigated by the Office of Professional Accountability will be assigned to an OPA investigator at the discretion of the Director of OPA, or their designee.

3.03 Referral of Complaints for Mediation

When appropriate, minor complaints may be referred for mediation as an alternative to the department's traditional complaint resolution process. The department recognizes there are many potential benefits to a mediation program and encourages the use of mediation where appropriate.

- A. Only minor complaints, such as courtesy, will be considered for referral to mediation.
- B. Participation in the mediation process is strictly voluntary for both the officer and the complainant.

- C. Both the citizen and the employee must agree to participate, and for a successful mediation to occur, both parties must participate in good faith, as determined by the mediator.
- D. An effort will be made to schedule the mediation meeting in a timely manner.
- E. The employee will be directed to attend any scheduled meeting in plain clothes, with their firearm covered.
- F. Every effort will be made to accommodate both the citizen and employee's schedule, with the employee attending in an on-duty status.
- G. Mediation will be considered to be successful when both parties participate in good faith, as reported to the department from the mediator. When this occurs, the complaint will be documented in accordance with departmental policy with a finding of matter of record, and no further investigation will occur.
- H. In the event mediation is considered to be unsuccessful based on the employee not acting in good faith as reported to the department by the mediator, a full investigation will occur.

Chapter 4

INVESTIGATIVE PROCEDURES

4.01 Supervisory Notifications

- A. Personnel shall ensure that prompt notification is made to the Lieutenant and Director of OPA of all serious allegations brought to their attention.
- B. The Chief of Police shall be informed about major complaints as soon as possible.
- C. OPA will serve as a resource in all matters that may be required for the good of the Department and the community.
- D. OPA personnel shall keep their chain of command informed of significant developments in their investigations, as they pertain to an employee's job function or current responsibilities.

4.02 Logging of Complaints

- A. Complaints received by OPA shall be entered into the complaint tracking software/program upon receipt.
- B. Control numbers shall be obtained for all complaints prior to sending them out for investigation by other components.

4.03 Disclosure

- A. In addition to standards expressed in MNPD Manual 12.10 for all personnel, all personnel assigned to OPA, whether on a temporary or full-time basis, shall maintain strict confidentiality regarding OPA matters at all times and at no time, divulge or discuss the contents of any files or documents they have access to. **Breach of confidentiality or failure to comply with this provision may result in disciplinary action or termination.**
- B. It will be the responsibility of OPA to ensure that all records of investigations conducted by the division remain confidential as permitted by the laws of the State of Tennessee.
- C. Release of Information on Open Cases

Release of information on open OPA cases shall be consistent with state law and rules of criminal procedure. All releases of information on open cases shall be approved by the Director of OPA, or authorized designee.

D. Release of Information on Closed Cases

Release of information on closed OPA cases shall be consistent with state law and rules of criminal procedure. All releases to the public shall be conducted through the MNPD Public Records Coordinator. Releases to government agencies shall be coordinated through the MNPD Public Records or established OPA chain of command.

E. Releases of Information on OPA Cases Pursuant to *Brady* or *Giglio*

All releases of information related to requests under these legal standards to the District Attorneys Office shall be made by the Director or her designee. All other requests shall be coordinated with the prosecuting attorney and released through the discovery process. Rule 16 of the Tennessee Rules of Criminal Procedure generally protects otherwise public records during the course of criminal proceedings. Use of public records laws to access records should not be permitted to subvert the discovery process when a criminal case is pending.

4.04 Complainant Status Notifications

The complainant shall be kept informed concerning the status of a complaint, to include:

- A. Verification that the complaint has been received for process. The investigator will accomplish this notification and shall document the notification within the case file activity log;
- B. Status reports from the investigator regarding the progress of the investigation every thirty (30) calendar days; and
- C. Notification of the results upon conclusion.

4.05 Employee Notification

- A. When an employee is the subject of an OPA investigation, written notifications outlining the allegations in the complaint will be sent to the employee and/or the supervisor thereof. The employee shall sign and return the notification of complaint and return it to the OPA investigator assigned to the case. The employee being investigated and/or their supervisor may keep a copy of the notification of complaint for their records.
- B. Whether notified that they are the subject of an investigation or a witness to the investigation, department personnel shall respond to the notification within the time period stated in the notification. Failure to comply will be grounds for disciplinary action.

NOTE: EMPLOYEES MAY NOT BE CONTACTED IF CONFIDENTIALITY IS DEEMED NECESSARY TO FACILITATE THE INVESTIGATION.

4.06 Investigation Timelines

- A. Unless the circumstances, including, but not limited to, the type of offense and the allegations known to the Department, indicate otherwise, the employee will be notified within ten (10) calendar days of receipt of the complaint.
- B. Active investigations should be completed within forty-five (45) calendar days from the date the employee has received formal notification that they have become the subject of an internal investigation, or from the date when an employee cannot reach a settlement with his/her supervisor(s) on the allegation, whichever is the later date. Investigations may exceed forty-five (45) calendar days with the approval of the Chief of Police or his designee. The complainant and employee shall be notified of the approved extension request.
- C. The above timelines are not applicable to preliminary inquiries or fact-finding used to determine the need for a formal investigation or to determine the appropriate investigative resource. Additionally, the forty-five (45) calendar day timeline would not apply to cases involving circumstances beyond the control of the investigative unit, e.g., cases pending litigation, requiring covert investigation, or where the employee is not readily available for the investigation to proceed.
- D. Status reports shall be given to the complainant regarding the progress of the investigation every thirty (30) calendar days;
- E. An investigation is closed when it has been reviewed and approved as closed by the appropriate supervisory personnel of the assigned investigator.
- F. A closed investigation may be re-opened upon receipt of new information.

4.07 Investigative Response

- A. Many times when a complaint is filed, the complainant has a number of concerns. Investigators shall concentrate only on those issues that fall under the policies and procedures of the department. When interviewing the complainant, the inability to address certain complaints should be explained.

4.08 Investigative Analysis

- A. When assigned a complaint, the investigator should first determine whether the initial stop, arrest, or contact that gave rise to the complaint was appropriate.
- B. This is critical, especially in use of force investigations. On the surface, the use of force may seem appropriate, but if the stop, arrest, or initial contact, which gave rise to the force, was inappropriate, then the force used would also be inappropriate.
- C. Determine if criminal misconduct is involved. (This will usually be decided before the investigator is assigned, but if acts of criminal misconduct are discovered during an administrative investigation, contact the OPA. Director or his/her designee immediately.)

- D. Consider potential motives – of both the employee and the complainant.
- E. Anticipate possible defenses of the complainant(s) and the accused employee(s). This will assist the investigator in conducting key interviews. By anticipating possible defenses, the interviewer is better prepared to ask follow-up questions.

4.09 Investigative Plan Elements

In developing the plan, investigators should first determine whom to question, and in what order. The plan should also anticipate the following:

- A. Decide generally what questions will be asked of which participants. Normally, investigations should always answer the questions who, what, when, where and how. Map out questions to ensure a detailed recorded statement is obtained from the complainant, all witnesses, and the accused employee(s).
- B. Determine what evidence exists. All pertinent evidence should be collected (evidence that can both prove or disprove the allegation).
- C. Develop a reasonable time frame to complete the investigation. Investigations should be completed in 45 calendar days. Note the due date and time limitations such as days off and vacation schedules, as well as transient/tourist witnesses, etc.
- D. Determine what reports or other documents are available to assist in the investigation. Review preliminary investigation reports and other police/citizen documents.
- E. Identify potential problems and discrepancies in the information already obtained.
- F. Determine what specialized equipment/tests are appropriate or needed (lab analysis, polygraph, etc.).
- G. Collect any photographs and any audio or visual recordings that may be available.
- H. If appropriate, interview the employee who received the initial information of the complaint and other personnel who had initial contact with the complainant.
- I. If appropriate, check the background of the complainant and accused employee(s).
- J. Prepare a written investigative plan.

4.10 Order of Interviews

Typically, the following order is used for interviews. This order may be altered, depending on the case being investigated.:

- A. Complainant(s)
- B. Witnesses
- C. Agency employees not directly involved in the incident
- D. Agency employees involved in the incident
- E. Resource persons who may assist in the investigation
- F. Accused agency employee(s)

4.11 General Interview Techniques

The following guidelines should be kept in mind when conducting an interview:

- A. Identify early on if there are any physiological or psychological limitations of any witness, including vision, hearing, or ability to write or speak. Also, be attentive to possible drug/alcohol use.
- B. Explain the interview process and the administrative investigation to each person interviewed. They should know why they are being interviewed and their role.
- C. At the beginning of the interview, allow the person to explain the entire incident in his/her own words and at his/her own pace, without interruption. There is plenty of time to revisit anything that does not fit within the preplanned questioning format. However, ask each question and ensure it is recorded. Each witness should be encouraged to provide as much detail as possible.
- D. If during the interview, the interviewee displays uncharacteristic physical behavior (non-verbal), the interviewer should attempt to capture that behavior by noting it on the record.
- E. If witnesses are describing locations or a progression of events in an area, ask them to draw those on paper. If using prepared diagrams, ensure they do not unreasonably direct the course of the interview. Drawings should be signed and made an official part of the interview. Ensure accurate documentation of physical holds, how police tools or weapons were used, and positioning of persons during the event. If you choose to use a video camera, the recording should be made an official part of the interview.
- F. Caution should be taken in recreating events. If it is difficult to create the exact circumstances, reenactments may be misleading. Carefully evaluate the usefulness of reenactment video.
- G. Identify the exact location of the witness at various stages of the incident. Investigators should either visit the scene or have photographs of the scene to help establish placement.
- H. How questions are asked is crucial. To the extent possible, initial questions should be open ended (who, what, when, where, why). Formulating questions before the interview is an important step. Each allegation and all relevant factors should be pursued from all possible angles. For example:
 - 1. Did the allegation occur?

2. Did you do it? Did someone else do it?
 3. Did you observe any injury? How could it have occurred?
 4. When the act occurred, who else was present? Were they in a position to observe the act?
 5. Were you in a position to observe the act? Did you see it or hear it?
 6. Why did you not see or hear it if you were in the position you were?
 7. Could the act have occurred and you weren't in a position to have witnessed it?
 8. Ask direct questions regarding each allegation. For example:
 - a. Did you see Officer Jones strike Mr. Smith on the head with a metal flashlight?
 - b. Did you hear the officer call Mr. Smith... (use the exact word allegedly used)?
- I. When dealing with an accused employee, ask for, and wait to receive, either an admission or denial to each specific allegation. A direct answer must be obtained for each question. Remember to listen to the answers provided. Do not anticipate the next question while the employee is answering the question.
- J. At the end, ask the interviewee if there are any questions or if there is anything to add or correct from the interview. Give the accused employees an opportunity to provide reasons for their actions, particularly if physiologically or psychologically based. Follow up on such remarks; they may be relevant to the investigation. If summary statements are taken, the interviewee should review them and acknowledge accuracy by signing a copy of the summary.

4.12 Interviewing Complainants

- A. Before interviewing the complainant, if possible, allow him/her to review the original complaint. He/she should be allowed to explain or add to it. If additional allegations arise during the interview, they should be fully pursued. At the end of the interview, ask if all allegations have been fully covered and if there are any other issues not addressed during the interview. If warranted, request the following before concluding the interview:
1. Photographs of the alleged injury, whether observable or not;
 2. medical release if appropriate.
 3. Copies of any relevant text messages, e-mails, etc.
 4. reason for any significant time delay in making the complaint; and
 5. availability for a follow-up interview, if necessary.
- B. Keep in mind that interviews with complainants may be difficult for them. For some complainants, the interview recalls an extremely emotional period of time. Others may be uncomfortable with talking to a member of a law enforcement agency. If the person becomes

emotional, offer to take a break, provide water and seek assistance if needed from your Chain of Command. If the person being interviewed becomes antagonistic, hostile, or agitated, attempt to defuse the situation before proceeding further with the interview. Questioning can be redirected to another issue for a time and be returned later to the area of controversy. If this is not successful, take a break to allow complainants to compose themselves.

- C. When interviewing a complainant, always keep an open mind. Do not be influenced by antagonistic statements.
- D. It is rare that a complainant or witness refuses to be interviewed during an administrative investigation. If this occurs, document in detail all efforts made to obtain statements, including attempts to contact the complainant or witness in person or by phone.
- E. In those cases involving the refusal of the complainant to cooperate in the investigation, a registered letter should be sent to the party refusing to cooperate. A time limit should be set in the letter, where if the complainant does not respond, the matter will be closed. If, by the time provided the complainant fails to respond, it should be fully documented in the file as considered as appropriate in credibility assessments. The exception would be if other evidence already exists which warrants a continuation of the investigation, such as body cam footage.
- F. At various stages of investigation, complainants may indicate a desire to withdraw a complaint. When a complainant requests withdrawal of allegations of serious misconduct, it is the policy of OPA to continue the investigation as far as possible without the assistance of the complainant. Investigations will proceed to ascertain the truthfulness of the allegations, to protect citizens from continuing misconduct, to protect the employee(s) from later allegations of misconduct concerning the withdrawn complaint, and to protect the department from an accusation of a failure to investigate.

4.13 Interviewing Departmental Witnesses

- A. When interviewing agency employees, allow them to review statements or reports submitted about the incident/allegation. Investigators shall remind all employees of their obligation to be truthful and of the consequences of not doing so.
- B. Generally, an employee will not be shown relevant body camera footage until after the investigator has questioned the employee about the incident. After those questions are answered the investigators shall show relevant body camera footage to the employee if it differs from their account and give the employee an opportunity to respond.
- C. If an employee is believed to be giving false or misleading statements during an interview, stop the questioning and remind the employee of his/her obligation to tell the truth. Also inform the employee he/she may be subject to discipline for not being truthful, and then, if necessary, order or seek a ranking officer to order the employee to answer the question.
- D. At the end of the interview, inform the employee that the interview is confidential, and instruct the employee not to discuss the investigation with anyone else. This does not restrict the employee from discussing it with his/her commander or representative. The employee may also be informed that the interview might be subject to disclosure at hearings and/or public record requests.

4.14 Employee Rights and Obligations

OPA policies and procedures, as well as employee rights and obligations will be made accessible to department employees.

4.15 Pre-Interview Admonitions

Pre-interview admonitions may be given to personnel prior to interview by an OPA investigator. These admonitions generally include:

- A. A review of employee rights and obligations;
- B. A review of the employee's *Garrity* Rights;
- C. A review of policies requiring honesty and truthfulness; and
- D. Notice of the Acknowledgement of Statement to be signed at the end of the interview.

4.16 Post-Interview Admonitions

Investigators may direct personnel not to disclose information about their OPA interview, or any other case information they have learned during the interview process, whenever it is deemed appropriate to protect the integrity of an ongoing investigation.

4.17 Investigative Interviews

- A. Investigative interviews conducted by the Office of Professional Accountability should be recorded whenever possible for documentation purposes. To this end, interviews should occur at the Office of Professional Accountability whenever reasonable.
- B. Investigative interviews may be conducted by one or more investigators, depending on the circumstances of the case, discretion of the investigator, or as directed.
- C. If a party refuses to permit the interview to be recorded, the refusal should be noted on tape, and then the interview may be conducted without the recording. A notarized written statement shall be requested during normal business hours, if a notary is available.
- D. When an interview is recorded, investigators shall avoid unexplained breaks in the recording. The interviewing investigator should identify the time, date, any admonishments or instructions given and the parties present for each recorded interview. If persons leave or appear during the interview, it should be noted on the record. Time and purpose should be identified for normal breaks. Off record discussions should be avoided whenever possible. If any occur, they should be acknowledged and discussed on the record as soon as possible.
- E. Department employees have the right to have a representative present during interviews if desired. Representatives are not permitted to participate in the interview. The employee will be permitted to briefly confer with his/her representative by requesting a break. Said conferences will be noted on the record. Breaks will not be permitted if a line of questions is pending.
- F. The employee will be allowed to make any necessary clarifications or comments after said conferences. However, extended delays and/or disruptive conduct by the employee or the

representative will not be permitted. Such conduct will be documented on the record, and may result in separate disciplinary charges against the employee, or exclusion of the representative.

- G. When a criminal complaint has been made against an employee of the department and that employee declines to be interviewed by criminal investigator(s), immediate phone notification shall be made to the OPA lieutenant and or director. OPA may interview the employee as soon as is practical.

4.18 Examinations, Searches, Photos, Documents, Exams, Tests, and Lineups

In accordance with Department Manual 4.10.050, B, personnel may be directed to submit to exams, searches, photo lineups, or to produce documentation as necessary for investigation. Specifically, policy states:

The department may direct that the employee undergo an intoximeter, blood, urine, psychological, polygraph, computer voice stress analysis (CVSA), medical examination or any other exam not prohibited by law or policy, provided the examination is pertinent to an administrative investigation (*Exams such as these which may be part of a criminal investigation are guided by existing criminal investigative laws*). Refusal to sign, or alteration of a waiver to submit to any of the referenced examinations, shall be considered a refusal to submit to the exam. (*Violation of this provision shall be a category A Offense*) Polygraph reports may be submitted for consideration with the investigative file. Polygraph/CVSA examinations unaccompanied by other objective evidence will not conclusively establish or refute allegations of misconduct. Employees will not be subject to corrective action or discipline solely on the results of a polygraph or CVSA examination.

Employees may request a second medical, laboratory, polygraph, other examination, or have test results independently reviewed; however, employees shall incur all costs for secondary testing or review. If a polygraph or CVSA examination is not requested during an investigation, employees may obtain an examination at his/ her expense.

No additional or subsequent CVSA or Polygraph testing, nor review, critique or evaluation of any test results, will be performed by departmental personnel except upon request of the initial examiner or the initial examiner's supervisor(s) or other personnel with primary responsibility for conducting the investigation.

4.19 Complaints of Harassment and/or Discrimination

Complaints of harassment or discrimination may be made directly to the Office of Professional Accountability. In accordance with Department Manual 4.50.050 (C), the following procedures should be followed in the event a complaint of harassment or discrimination is received:

- A. The Office of Professional Accountability shall be responsible for investigating any complaint alleging harassment and/or discrimination reported to OPA or may refer to Human Resources if appropriate where workplace discrimination is involved.
- B. The Office of Professional Accountability investigator shall include a determination as to whether other employees or citizens are being harassed and/or discriminated against by the person(s), and whether other department employees participated in or encouraged the harassment and/or discrimination.

- C. The investigation of the complaint shall be completed within thirty (30) calendar days of receipt. An additional thirty (30) calendar days may be authorized by the Chief of Police should the complexity or other complicating factors of the investigation warrant the extension.
- D. The Office of Professional Accountability shall forward the full report and findings to the Chief of Police upon completion of the investigation.
- E. After review, the Chief of Police will send a written notice of the results and/or action(s) taken to date within fourteen (14) calendar days to the complainant.
- F. If the complaining party is dissatisfied with the results of the investigation, the complaining party should follow the steps outlined in Article VI, Section E, Filing a Complaint with the Metropolitan Government Equal Employment Opportunity Coordinator, within ten (10) calendar days of the final disposition of the Office of Professional Accountability.
- G. All files of harassment and/or discrimination complaints shall be maintained in a secure location within the Office of Professional Accountability. The Chief of Police shall be provided with an annual summary of all harassment and discrimination complaints by the Director of the Office of Professional Accountability.

4.20 Case Status Designation

All cases assigned for investigation will be worked on a continuing basis unless otherwise designated. The following are the applicable designations:

- A. Open - Case is currently under active investigation.
- B. Inactive - When there is insufficient information and/or evidence to proceed with an investigation, a case may be placed in this category pending additional information. If additional information becomes available the case will again become an active case.
- C. Closed – An investigation is closed when it has been reviewed and approved as closed by the appropriate supervisory personnel of the assigned investigator.

4.21 Conclusions of Fact

At the conclusion of an investigation of alleged misconduct, an “Investigative Finding” will be made. These findings will be reported to the involved employee(s) and through the chain of command to the Chief of Police. Once such findings are approved they shall also be reported to the complainant. The “Investigative Finding” will be derived from the following criteria and shall be reported as follows:

- A. **Exonerated** – An incident did occur but the action was consistent with established policy, rules, or procedure.
- B. **Sustained** – The allegation is true. The action was inconsistent with established policy, procedure, or rules.
- C. **Policy/Training Failure** – Although the action was consistent with departmental policy or training, the need to review, revise or develop departmental policy, procedure or training was identified.
- D. **Not Sustained** – There is not sufficient evidence to sustain or refute the allegation.
- E. **Unfounded** – The allegation was proven false.
- F. **Matter of Record** – Cases may be administratively closed and maintained as a matter of record that the complaint was made, when the investigation cannot conclusively disprove complaint allegations or establish that the alleged events occurred. This designation may also be used when investigations are closed or suspended due to the remoteness of subject events, unavailability of

necessary witnesses or unavailability of the subject. (e.g. military leave, incapacitating illness). The summary will report all investigative efforts and acknowledge that the investigation may be revisited at a later date, if additional information becomes available.

Chapter 5

FORCE INVESTIGATIONS

The Office of Professional Accountability's Force Investigation Team (FIT) shall review any use of force by an employee of the department resulting in death or serious bodily injury of any person. Additionally, the FIT may review any firearm discharge, misapplication of force, or other serious use of force by a member of the department. Upon notification of such a use of force the OPA Director or Lieutenant will ensure notification and response of Force Investigation Team investigator(s). Members of the Force Investigation Team shall receive appropriate training related to force investigations.

5.01 Investigation of Officer Involved Shootings

5.01.01 Office of Professional Accountability Responsibilities

- A. Investigator(s) from OPA shall respond to the scene of and review and/or investigate all use of force incidents involving the use of a firearm by an employee of this department, or used against an employee of this department, that result, or could have resulted, in injury to and/or death of a civilian or an officer.
- B. OPA investigators may exercise discretion in responding to the scene of incidents involving the negligent discharge of a firearm.
- C. The Cold Case Unit, or Tennessee Bureau of Investigation (TBI) at the direction of the District Attorney, will be the lead investigative unit on all investigations involving the use of a firearm by an employee of this department, or used against an employee of this department, that result in injury to and/or death of a civilian or an officer.
- D. Unless otherwise directed, OPA shall be responsible for the ensuring the departmental administrative alcohol and drug testing is completed.
- E. The OPA director, or his/her designee, upon review and communication with the Criminal Investigation Division/TBI and Forensic Services Division, will make recommendations to the Chief of Police regarding potential administrative issues and/or violations.

5.01.02 OPA Investigator Responsibilities

- A. The responding investigator(s) shall, at a minimum:
 - 1. Promptly respond to the scene;
 - 2. Use discretion in inserting him/herself into the situation so as to avoid direct contact with the involved officer(s), unless directed otherwise in accordance with Section B below;
 - 3. Obtain information and facts from key on-scene supervisory personnel, *paying attention to not only the use of force incident, but also determining whether the initial stop, arrest, or contact, giving rise to the use of deadly force, was appropriate;*
 - 4. Electronically monitor criminal interviews conducted by the Cold Case Unit/TBI;

5. Obtain all relevant body camera footage when it is available.
 6. Keep the OPA Lieutenant and Director updated on the status of the review and/or investigation; and
 7. Prepare a summary report for the Director.
- B. The role of the OPA investigator is secondary to the criminal investigation at the scene, unless directed to engage in an administrative interview at that time. This direction would come from the Director, Deputy Chief of Police, or the Chief of Police.

5.02 Investigation of In-Custody Death or Serious Bodily Injury Incidents

5.02.01 Office of Professional Accountability Responsibilities

Incidents involving the death or serious bodily injury of a subject in the custody of a member of the MNPD shall be handled in accordance with procedures outlined within 5.01, above.

Chapter 6

OFFICE OF PROFESSIONAL ACCOUNTABILITY LIEUTENANT

6.01 OPA Lieutenant Responsibilities

The Lieutenant of the OPA Division shall be directly accountable to the Director of the OPA Division for the proper administration, general management, and control of all matters related to the operation of that Division and to be generally governed by the same command duties and responsibilities, rules and regulations applicable to any other commanding officer of the department. Assigned duties shall include:

- A. Maintaining liaison with all other elements of the department and allied agencies;
- B. Serving as a representative of the department to any agency concerned with the activities and operations of the OPA Division;
- C. Familiarization with the administrative policies and execution of a service program within the area of responsibility of the OPA Division, which include;
 1. Conducting investigations involving deficiencies of and accusations against department personnel;
 2. Supervising and monitoring the department's disciplinary procedures initiated by commanding officers and supervisors;
 3. Developing and maintaining records of all investigations;

4. Providing assistance to any commanding officer or supervisor in the advancement of the department's interest;
 5. Completing an annual report regarding internal investigations conducted by the department;
 6. Completing an annual biased based policing report; and
 7. Submitting bi-monthly reports to the Chief of Police regarding internal investigations.
- D. Provide and maintain OPA records for the purpose of;
1. Issuing OPA complaint case number to provide control and security to investigations involving department personnel;
 2. Receiving, processing and providing ready reference for all complaints against department personnel;
 3. Monitoring and documenting the progress and disposition of internal investigations;
 4. Assign OPA complaints; and
 5. Monitor and insure the daily functions are maintained by all personnel of OPA Division.
- E. Seek the most qualified personnel to fill positions as they are vacated;
- F. Assist with organizing, directing and controlling all resources of the OPA Division, maintaining operation of the division in a productive level, and making the command flexible to insure optimum performance in discharging the division's operation;
- G. Assist with formulating goals and objectives pertinent to the operation off the OPA Division as needed;
- H. Be available in an on-call status; and
- I. Perform other duties and discharge other responsibilities as may be assigned by the Director of the OPA Division.

Chapter 7

OFFICE OF PROFESSIONAL ACCOUNTABILITY INVESTIGATOR

7.01 OPA Investigator Responsibilities

OPA investigators shall be directly accountable to the Director of the OPA Division, and the assigned Lieutenant. Investigators are expected to display for optimum performance of duties, general conduct, and control of all matters relative to their assignment. He/She shall be generally governed by the same duties and responsibilities, rules and regulations applicable to any other employee of department, and more specifically, by those pertaining to their assignment as an OPA Investigator. Other duties shall include:

- A. The investigation of all matters involving deficiencies of, and allegations made against personnel of the Department;
- B. The OPA Investigator shall report to the Director of the OPA Division, or his/her designee in prescribed form and detail, his/her activities so as to reflect the services, problems, and other such pertinent information relative to his/her assignments;
- C. The OPA Investigator shall be responsible for interviewing complainants, witnesses and all personnel involved;
- D. The OPA Investigator shall obtain relevant documentation from various departments, components within the MNPD, Medical Facilities and any other outside agency or source in order to facilitate the investigation;
- E. The OPA Investigator shall photograph, when necessary, injuries attributed to alleged misconduct, scenes of incidents, victims, complainants, officers and other personnel, or any other relevant evidence required for a comprehensive investigation;
- F. The OPA Investigator shall be knowledgeable of the rules and regulations governing the Department, and the Civil Service Rules and Regulations. The investigator shall be knowledgeable of Civil and Criminal law;
- G. The OPA Investigator shall prepare an evidentiary file for presentation to the Chief of Police after the completion of his/her investigation;
- H. The OPA Investigator will, upon request or subpoena, testify in departmental and Civil Service hearings;
- I. The OPA Investigator shall be responsible for research of investigative files and provide necessary documentation to the Metropolitan Legal Department as per request or subpoena;
- J. The OPA Investigator shall assist citizens, who have a grievance or complaint against an employee, by directing them to the appropriate authority;
- K. The OPA Investigator must be proficient in written and verbal communicative skills;

- L. The OPA Investigator must possess, or have the ability to expeditiously acquire interview and interrogation skills;
- M. The OPA Investigator should be N.C.I.C. certified and have basic knowledge in operating departmental computers.
- N. The OPA investigator shall keep the Director and Lieutenant informed on all ongoing investigations and shall record investigative status updates regularly on MNPD Form 716, Office of Professional Accountability Bi-Monthly Case Review;
- O. Strive to complete all investigations within the 45-day requirement;
- P. Be available in an on-call status in a rotating schedule; and
- Q. Perform daily desk duty responsibilities in a rotating schedule.
- R. Dress Code – The following is acceptable clothing when working in the office or field:
(Business casual)
 - 1. Dress Polo style shirt (with a collar)
 - 2. Long sleeve dress shirt
 - 3. Sweater
 - 4. Dress Slacks
 - 5. Dress
 - 6. Skirt
 - 7. Suit
 - 8. Dress Shoes
 - 9. All shirts will be worn buttoned up to not expose the chest
 - 10. Ties are optional
 - 11. For courtroom and disciplinary proceedings the guidelines established in the Department Manual will be followed.

Chapter 8

CIVILIAN PERSONNEL

8.01 OPA Civilian Personnel Responsibilities

While maintaining confidentiality, civilian personnel are expected to perform difficult and highly responsible clerical work with wide latitude for the exercise of initiative and independent judgment including, but not limited to, the following duties and responsibilities:

- A. Take and transcribe complex dictation from investigators, departmental employees, citizens, or persons employed by outside agencies in connection with internal investigations;
- B. Transcribe and type verbatim statements, interviews, summaries, reports and any other related investigative documents;
- C. Generate all correspondences and interdepartmental memos for the OPA Director;
- D. Update and process OPA statistics and disciplinary action;
- E. Document, record and file investigative case files;
- F. Maintain updated division records, departmental policies and procedures and maintain files for documents pertaining to same;
- G. Respond to inquiries and provide information to officers and civilians as related to OPA Division policies and practices;
- H. Process incoming and outgoing mail for OPA Division;
- I. Prepare final notifications of case file disposition to all complainants and officers and maintaining accurate records thereof; and
- J. Prepare and administrative reports as requested, to include annual reports for OPA Division.

Chapter 9

ROTATIONAL SERGEANT PROGRAM

9.01 Purpose

Internal investigations are inherently difficult and sometime complex investigations. The public has a right to expect a fair and impartial investigation when an employee is the subject of a complaint. The rotational sergeant program is designed to train supervisory personnel on how to conduct a comprehensive and impartial internal investigation.

9.02 Goals

This program serves to:

- A. Teach supervisory personnel best practices in conducting administrative investigations;
- B. Take and document complaints;
- C. Develop an investigative action plan;
- D. Identify and analyze the appropriate departmental policies and procedures that are alleged to have been violated;
- E. Interviewing employees, complainants, and witnesses;
- F. Analyze written statements and/or supplemental reports, departmental, and other reports of an official and/or confidential nature;
- G. Establish productive interview and listening skills;
- H. Establish good written communication skills;
- I. Documenting all aspects of the investigation;
- J. Creating a case summary report to include a conclusion of facts and recommendations; and
- K. Recognizing and addressing new or frequent trends regarding department policy violations.

Additionally, the program strives to give a proper understanding of most aspects of OPA and allows the supervisors to return to their field assignments to use and teach the skills they have acquired and promote a fact-based narrative of the Office of Professional Accountability's purpose and procedures to officers in the field.

9.03 Administration

- A. Rotational sergeants will spend eight (8) weeks on temporary assignment.
- B. Staff assignments will be coordinated between the appropriate bureaus and OPA.
- C. Temporarily assigned personnel are expected to adhere to expectations and responsibilities of full-time OPA investigators, to include participation in departmental, Civil Service, or related administrative hearings.
- D. Temporarily assigned personnel will sign a confidentiality agreement upon beginning their rotation.

Chapter 10

COMMUNITY EDUCATION & INVOLVMENT

10.01 Community Resources

- A. The department will prepare and distribute an informational document outlining the complaint process. This is to include ways of registering a complaint and a brief description of the investigative process.

The document will be distributed to all employees and will also be available to the public in the lobby of the Criminal Justice Center; all patrol stations, the Police Information Desk and the information desk at the Davidson County Courthouse. This document will also be available at various other Metropolitan Government departmental and private sector offices. The information will also be available to the news media.

- B. Members of the Office of Professional Accountability will be available to attend various community and professional group meetings throughout the year for the purpose of education on the complaint process, internal investigations, and racial profiling and an additional forum to voice concerns.

Chapter 11

METRO NASHVILLE COMMUNITY OVERSIGHT

11.01

- A. OPA will work Cooperatively with MNCO in order to ensure that all disciplinary issues are addressed promptly, appropriately, with integrity, and for the good of the community. The director or her designee shall communicate with the MNCO director to deconflict and otherwise address any issues that may arise.
- B. OPA through any of its investigators or clerical staff will provide contact information for MNCO to citizens who complain to OPA when the citizen expresses concern that OPA may not have addressed his or her concern appropriately.
- C. When an investigation is concluded, and a letter is sent to a citizen complainant indicating that the complaint was not sustained, the letter shall include notification that the citizen may contact the MNCO, along with MNCO's contact information.